

REMARKS

Claims 1 to 52 were pending in the application at the time of the seventh examination of this application. Claims 1 to 52 are subject to restriction under 35 U.S.C. § 121.

The action stated:

5. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group 1: Claims 1-22 and 39 are drawn to  
"distributed data processing: processing agent",  
classified in class 709, subclass 202.

Group 2: Claims 23-38 and 40-52 are drawn to  
"computer network managing computer network  
access regulating", classified in class 709,  
subclass 225.

Applicants respectfully traverse the restriction requirement. The Office now takes the position that the characterization and classification of the claims in the past six examinations was apparently wrong. Moreover, the action mischaracterizes the status of the application as having filed a reply brief. The following information is a brief summary of the prosecution history:

1) In the paper dated 11/12/2004, Claims 1 to 52 were rejected as anticipated in view of U.S. Patent No. 6,615,212. The rejection at Page 5, paragraph 15 stated "claims 23-34 . . . have similar limitations as claims 10-22," and at page 7, paragraph 22, "claims 39, and 41-52 have similar limitations as claims 10-22."

2) In the paper dated 5/31/2005, Claims 1 to 52 were rejected as anticipated in view of U.S. Patent No. 6,615,212.

3) In the paper dated 9/30/2005, Claims 1 to 52 were rejected as anticipated in view of U.S. Patent No. 6,421,733. The rejection at Page 5, paragraph 12 stated "claims 23-34 . . . , have similar limitations as claims 1-9," and at page 7, paragraph 19, "claims 41-52, have similar limitations as claims 10-22."

4) In the paper dated 4/27/2006, Claims 1 to 52 were rejected as obvious. Claims 1 to 8, 10 to 19, 21 to 32, and 34 to 52 were rejected as obvious in view of the combination of U.S. Patent No. 6,925,595 and 6,922,733. The rejection stated in paragraphs 11 to 13.

11. Regarding claims 23-32, and 34, have similar limitations as claims 1-8. Therefore, claims 23-32, and 34 are rejected for the same reasons set forth in the rejection of claims 1-8.
12. Regarding claims 35-38, have similar limitations as claims 1-4, and 8. Therefore, claims 35-38 are rejected for the same reasons set forth in the rejection of claims 1-4, and 8.
13. Regarding claims 39, and 41 -52, have similar limitations as claims 10-22. Therefore, claims 39, and 41 -52 are rejected for the same reasons set forth in the rejection of claims 10-19, and 21 -22

5) In the paper dated 10/17/2006, Claims 1 to 8, 10 to 19, 21 to 32, and 34 to 52 were rejected as anticipated by U.S. Patent No. 6,925,595. Claims 9, 20, and 33 were rejected as obvious. The rejection stated:

12. Regarding claims 23-32 claiming for computer-based method have limitations corresponding to the system claims 1-8. Therefore, claims 23-32 are rejected for the same reasons set forth in the rejection of claims 1-8.
13. Regarding method claim 34, has limitations corresponding to the system claims 1-8. Therefore, claim 34 is rejected for the same reasons set forth in the rejection of claims 1-8.

14. Regarding method claims 35-38, have limitations corresponding to the system claims 1-4, and 8. Therefore, claims 35-38 are rejected for the same reasons set forth in the rejection of claims 1-4, and 8.
17. Regarding claims 41 -52, claiming for the instruction of proxy server have limitations corresponding to claims computer-based method 10-22. Therefore, claims 41-52 are rejected for the same reasons set forth in the rejection of claims 10-19, and 21 -22.

6) In the paper dated 4/18/2007, Claims 1 to 5, 8 to 16, 19 to 29, 32 to 44 and 46 to 52 were rejected as anticipated by U.S. Patent No. 6,507,867. Claims 6, 7, 17, 18, 30, 31 and 45 were rejected as obvious. The rejection stated:

14. Regarding claims 23-32, claiming for computer-based method have limitations corresponding to the system claims 1-8. Therefore, claims 23-32 are rejected for the same reasons set forth in the rejection of claims 1-8.
15. Regarding method claim 33 has limitations corresponding to the system claim 9. Therefore, claim 33 is rejected for the same reasons set forth in the rejection of claim 9.
16. Regarding method claim 34, has limitations corresponding to the system claim 8. Therefore, claim 34 is rejected for the same reasons set forth in the rejection of claim 8.
17. Regarding method claims 35-38, have limitations corresponding to the system claims 1-4, and 8. Therefore, claims 35-38 are rejected for the same reasons set forth in the rejection of claims 1-4, and 8.
18. Regarding claim 39, claiming for the computer program product, has limitations corresponding to computer based method claims 10, 23. Therefore, claim 39, is rejected for the same reasons set forth in the rejection of claims 10, 23.
19. Regarding claims 40-44, 46-52, claiming for the instruction of proxy server have limitations corresponding to claims computer-based method 1-5, 8-9. Therefore, claims 40-44, 46-52 are

rejected for the same reasons set forth in the rejection of claims 1-5, and 8-9.

Thus, the Office over a three year period has issued six actions that considered all claims and that included five different grounds of rejection for all the claims. Applicants have distinguished all five of the different rejections for all the claims, Claims 1 to 52.

Further, the Office has consistently taken the position, as demonstrated above, that Claims 1 to 52 have a unity of invention. Specifically, the same rejection has been used for claims that the Office now asserts are distinct inventions. The instant action means that the Office has wasted three years of prosecution and now wants to start over.

Rather astoundingly, the Office now takes the position that the Office's consideration of the claims over the past three years and six examinations was in error and the claims now recite distinct inventions even though the claims are the same as those previously considered. The current action completely contradicts the prior characterizations and interpretation of the claims by the Office as having unity of invention, which in fact was correct.

The restriction requirement mischaracterizes a structure claim, Claim 1, and a method claim, Claim 23, as being combination and subcombination. Such a characterization is error. The action has failed to explain how a method claim can be a subcombination of a structure claim. The incorrect characterization as combination and subcombination is sufficient to have the rejection withdrawn.

Claim 23 is a process and Claim 1 is an apparatus for the practice of Claim 23. Therefore, not only has the requirement used an incorrect analysis of combination and subcombination, but also the requirement has mischaracterized the claims. This mischaracterization in view of the prosecution history is

strong evidence that there simply is no basis for the restriction requirement.

The prosecution history demonstrates that when the claims are properly considered as process and apparatus for practice of the process, there is no basis for restriction. Applicants respectfully request reconsideration and withdrawal of the restriction requirement.

Further, Applicants note that the MPEP provides:

**I.< CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS**

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § \*>806.06<, § 808.01) or distinct as claimed (see MPEP § 806.05 - § \*>806.05(j)<); and

(B) There \*>would< be a serious burden on the examiner if restriction is >not< required (see MPEP § 803.02, \*\*>§ 808<, and § 808.02). (Emphasis Added.)

MPEP § 803, 8<sup>th</sup> Ed., Rev. 5, p 800-4 (August 2006).

As demonstrated above, the instant application has been examined six times and all the claims have been rejected on five different grounds even though Claim 1, for example, is an original claim. Considering that in the prior actions, various combinations of the claims, now alleged to be distinct inventions, were grouped together and rejected by the Office, the prosecution history is strong evidence that the assertion that the various claims must now be separately searched and considered is without merit.

The Office simply cannot ignore the numerous prior examinations and the grouping of claims and now assert that continued examination of all the claims represents a serious burden as required by the MPEP. In view of the prosecution history, the allegation of a serious burden simply has no merit and the restriction requirement should be withdrawn and all of

the claims should be considered. Any other action continues the improper piecemeal examination of this application.

If the Examiner should disagree, Applicants elect Group I, Claims 1 to 22 and 39.

Claims 1 to 52 remain in the application. For the foregoing reasons, Applicants respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicants.

**CERTIFICATE OF MAILING**

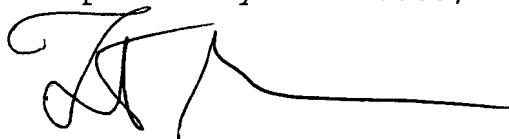
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 13, 2007.



Attorney for Applicant(s)

November 13, 2007  
Date of Signature

Respectfully submitted,



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